



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
REGIONAL COUNSEL

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MEMORANDUM

SUBJECT: Close-Out of Potential Cost Recovery
US Ecology Waste Disposal Facility Explosion Site
SSID: 10RG
CERCLIS ID: IDN001020075

FROM: Kris Leefers, Assistant Regional Counsel
Office of Regional Counsel

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Superfund and Emergency Management Division

THRU: Dean Ingemansen, Land Law Branch Chief
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TO: Calvin J. Terada, Director
Superfund and Emergency Management Division

DATE: August 4, 2021

I. Introduction

This memorandum documents the U.S. Environmental Protection Agency's (EPA) determination not to pursue cost recovery against any potentially responsible parties (PRPs) for costs incurred by EPA at the US Ecology Waste Disposal Facility Explosion Site located in Grand View, Owyhee County, Idaho (Site) under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601, *et seq.*

II. Site Description

The Site is a hazardous waste disposal facility, regulated pursuant to Subtitle C of the Resource Conservation and Recovery Act. The facility is primarily engaged in the management and disposal of inorganic hazardous waste. It is located in a remote area of Owyhee County, approximately 10 miles from Grand View, Idaho. The facility has processed magnesium fines waste streams for over 10 years without incident. On November 17, 2018, during the process of treating a waste stream of magnesium fines, a release occurred which resulted in an explosion and fire. It is estimated that approximately 7,000 pounds of magnesium waste was present. Magnesium is an alkaline earth metal and reacts strongly when in contact with water. The exact cause of the explosion is not known to EPA. The building where the magnesium waste was stored was significantly damaged, and the explosion caused some damage to surrounding buildings, which also housed other hazardous substances. The initial fire was limited to the building footprint and was described as smoldering after the initial fire.

III. Work Performed and Associated Costs

EPA arrived at the Site on November 18, 2018. EPA joined Unified Command and provided oversight to the facility owner and its contractors. Primary objectives of the response were to secure remaining magnesium fines, secure other hazardous substance waste streams, and enter the building when safe to assess any other releases or threats of releases of hazardous substances. The facility owner's contractors undertook overpacking and staging of magnesium fines and secured and staged other hazardous substances as needed. EPA conducted air monitoring for particulates, lower explosive limit, and volatile organic compounds (VOCs) at the Site. EPA did not conduct any cleanup work at the Site. All hazardous substance assessments and immediate stabilization measures were completed by the facility owner by November 21, 2019. EPA completed its air monitoring and demobilized at the end of the day.

The estimated response costs from the start date through July 6, 2021 are \$37,733.28.

IV. Potentially Responsible Party

This memorandum provides a summary of the party identified through information gathered by EPA at the time of the response action and during the drafting of the memorandum. This memorandum assesses the party's potential liability as follows.

a. US Ecology, Inc.

US Ecology, Inc. operated the waste management facility at the time of the release of hazardous substances into the environment. US Ecology, Inc., formerly American Ecology Corporation, was incorporated in Delaware in March 1987. US Ecology, Inc. operates waste management facilities and landfills in the United States, Canada, the United Kingdom, and Mexico. US Ecology, Inc.'s viability is unknown, and EPA has not sent an information request to the PRP nor undertaken additional research related to the business' financial ability to pay EPA's costs.

V. Basis of Decision to Not Pursue Cost Recovery

Based on limited investigation around the time of the response action and afterwards, the PRP identified above is likely liable for response costs under CERCLA. However, the OECA memorandum dated May 12, 1995 and updated guidance dated April 10, 2013, allows EPA to exercise its enforcement discretion

and elect not to pursue cost recovery in cases where the total response costs do not exceed \$500,000. The total costs for the Site are \$37,733.28, which is well below the threshold in the OECA memorandum.

(b) (5)

VI. Conclusion

(b) (5)

This memorandum does not extinguish or compromise any cost recovery rights of EPA and does not foreclose EPA from re-opening the case for any reason. Should additional information be made available, EPA may elect to further pursue cost recovery actions for the Site.

List below: Hazardous release?

Release of a hazardous substance?
Into the environment?

☒ Yes ☐ No
☒ Yes ☐ No

List below: What and when it was released?

Magnesium waste was released into the environment on November 17, 2018.

Response Costs Incurred – Attach cost documentation.

Total Costs recovered – \$0

Total Costs closed out – \$37,773.28

Pre-Remedial:

☐ PA/SI/EASI/etc., SEMS#

Removal:

☐ PA/SI, SEMS #

☐ Action Memorandum, SEMS #

☒ Pollution Report, Initial and Final, SEMS # 100134694

Basis Not to Pursue Cost Recovery

☐ **No PRPs/No viable PRPs**

Explanation of the difference between no PRPs and no viable PRPs is in the PRP search report. The PRP search report or other documentation of the completed PRP search effort should be attached. A written evaluation of the ability of any identified PRPs to satisfy a judgment for the amount of the claim or to pay a substantial portion of the claim in settlement should be conducted during the PRP search. The CRDD should reference the results of such evaluation. If a PRP is defunct, bankrupt, or insolvent, the proper category is "no viable PRPs." Unless the PRP is defunct, bankrupt, insolvent or deceased, this category should not be used unless a complete ability to pay analysis has been completed. In those cases, the ATP analysis memo should be attached.

- ☐ PRP search report, SEMS #
- ☐ Ability to Pay analysis, SEMS #

Comments:

☐ **Insufficient evidence**

The available evidence does not support one or more essential elements of a prospective case, and there is no reason to believe such evidence can be discovered or developed in the future at a reasonable cost. Reference the primary documents that support the case. Documents in the site file should support this justification.

- ☐ Reference documents, SEMS #

Comments:

☐ **Questionable legal case**

The CRDD should identify what legal issues would impair successful cost recovery efforts. For example, the PRP is an innocent landowner.

- ☐ PRP search report/PRP reference summary, SEMS #
- ☐ 10-point settlement analysis, SEMS #
- ☐ Settlements

Comments:

☒ **Other**

☐ **Residential Homeowners:** The facts and circumstances meet the criteria of the EPA's Policy Toward Owners of Residential Property at Superfund Sites, dated July 3, 1991. There are no facts to indicate that any of the exceptions set forth in the policy apply or to otherwise suggest the need to seek recovery of past costs.

☐ **Tribal:** This site is located on Tribal land and is owned and/or operated by a Tribe. The definition of the term "person" in CERCLA does not include the word "Tribe." This statutory exclusion creates a significant litigation risk when attempting to hold the Tribe as a liable party. Therefore, the region has determined not to pursue cost recovery in this case.

☒ Agency lacks resources: According to the OECA memorandum dated May 12, 1995 and updated guidance April 10, 2013, "insufficient resources" refers to Regional resources, not PRP resources, and can only be used in cases where the total costs of response do not exceed \$500,000. The memo states, "[An] abbreviated DD can state that pursuit of such cases is unjustified given that limited Regional resources are fully occupied pursuing higher priority activities. We believe writing off such costs is an efficient use of such limited resources. In addition, Regions do not have to pursue such cases vigorously (e.g. conduct extended PRP searches or send numerous demand letters and information requests), because it is likely that the cost of collection will exceed the amount recovered."

Reason for CERCLIS

- ☐ Non-viable PRPs
- ☐ Insufficient evidence
- ☐ Consideration of Response Work
- ☐ Litigation Risk
- ☐ No PRPs Identified
- ☒ Insufficient EPA Resources
- ☐ Other

Attachments:

1. Itemized Cost Summary Site ID: 10RG
2. Polrep #1, Initial and Final

Concur:

**CALVIN
TERADA**

Digitally signed by CALVIN
TERADA
Date: 2021.08.04 10:22:16
-07'00'

Calvin J. Terada, Director
Superfund and Emergency Management Division

Original w/attachments: Superfund Site File, Superfund Records Center

Itemized Cost Summary
US Ecology Waste Facility, GRAND VIEW, ID SITE ID = 10 RG
Estimated Response Costs Fro Day 1 Through 07/06/2021

REGIONAL PAYROLL COSTS	\$3,630.43
REGIONAL TRAVEL COSTS	\$94.00
SF TECHNICAL ASSISTANCE & RESPONSE TEAM (START)	
ECOLOGY AND ENVIRONMENT (EPS71307)	\$23,072.72
EPA INDIRECT COSTS	\$10,976.13
Total Site Costs:	<div></div> <div>\$37,773.28</div>

U.S. ENVIRONMENTAL PROTECTION AGENCY
POLLUTION/SITUATION REPORT
US Ecology Waste Disposal Facility Explosion - Removal Polrep
Initial and Final Removal Polrep



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region X

Subject: POLREP #1
Initial/Final
US Ecology Waste Disposal Facility Explosion

Grand View, ID
Latitude: 43.0654012 Longitude: -116.2640888

To: Brooks Stanfield, EPA
Calvin Terada, EPA
Beth Sheldrake, EPA
Albert Crawshaw, IDEQ
Jeff Rylee, IOEM
Rees David, EPA
Wally Moon, EPA
Jim Wernitz, EPA Region 10 IOO
Mark MacIntyre, EPA
Kris Leefers, EPA
Dean Ehlert, IDEQ
Mark Dietrich, IDEQ
Natalie Creed, IDEQ

From: Stephen Ball, OSC

Date: 12/10/2018

Reporting Period: 11/17/2018 - 11/19/2018

1. Introduction

1.1 Background

Site Number:	Contract Number:
D.O. Number:	Action Memo Date:
Response Authority: CERCLA	Response Type: Emergency
Response Lead: PRP	Incident Category: Removal Action
NPL Status: Non NPL	Operable Unit:
Mobilization Date: 11/18/2018	Start Date: 11/18/2018
Demob Date: 11/21/2018	Completion Date: 11/21/2018
CERCLIS ID:	RCRIS ID:
ERNS No.:	State Notification:
FPN#:	Reimbursable Account #:

1.1.1 Incident Category

Emergency Response

1.1.2 Site Description

The site is a Subtitle C hazardous waste disposal facility, which is primarily engaged in the management and disposal of inorganic hazardous waste. It is located in a remote area of Owyhee county approximately 10 miles from the town of Grand View, Idaho. They have processed magnesium fines waste streams for over 10 years without incident. There were 21 people on site at the time of the incident.

1.1.2.1 Location

20400 Lemley Road Grand View, Owyhee County, ID 83624

Latitude: 43.0654012

Longitude: -116.2640888

1.1.2.2 Description of Threat

During the process of treating a waste stream of magnesium fines prior to disposal a release occurred resulting in an explosion and fire in the Containment and Stabilization buildings. Additional containers of several waste streams were located on the apron directly south of the building and some of those containers were impacted.

Several wastes including the magnesium waste, corrosive waste and flammable waste are hazardous substances as defined by 40 CFR 302.4 and this release poses a threat to public health and welfare of the United States according to the criteria for a removal action listed in 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan.

1.1.3 Preliminary Removal Assessment/Removal Site Inspection Results

At approximately 0915 Mountain Standard Time on November 17th, an explosion occurred at the US Ecology Subtitle C disposal facility in Grand View, Owyhee County, Idaho. The explosion took place in a

building, called the Stabilization building, used to process magnesium powder fines waste. Identical impacts were observed in the connected Containment building, which was a later addition to the Stabilization building, but considered a separate building. It was estimated that approximately 7,000 pounds of magnesium waste was present in the Stabilization building. Magnesium is an alkaline earth metal and reacts strongly when coming in contact with water although the exact cause of the explosion is not definitively known.

Three workers from the facility were injured in the explosion and one fatality occurred. The building where the magnesium waste was located was significantly damaged and the explosion caused some damage to surrounding buildings, which may also contain hazardous waste. There was an initial fire resulting from the explosion, however it burned out by the evening of November 17, 2018. Responding firefighters did not use water to fight the fire and took up defensive positions due to the nature of the fire. The fire was limited to the building footprint and was described as smoldering after the initial explosion. The fire did not spread. Damage from the explosion compromised US Ecology's ability to immediately access and provide definitive information on the chemical contents of all surrounding structures. There were no initial concerns about impacts to off-site air quality as the Regional Response HazMat team conducted air monitoring during the day of November 17th using a 5-gas meter and observed no issues. US Ecology began response activities on November 18, 2018 after control of the site was released from Owyhee County Sheriff. An EPA OSC deployed to the site on the morning of November 18 and EPA START contractors deployed to the area on the evening of November 18th.

2. Current Activities

2.1 Operations Section

2.1.1 Narrative

Once the site was released to US Ecology, assessment teams conducted visual surveys of the impacted buildings and all waste container storage areas. It was determined that perimeter buildings and pads, used to store hazardous waste, were damaged in some cases, but in all cases waste containers were not damaged and intact. Areas of concern identified from the assessment effort included the Containment and Stabilization building footprint and the concrete and gravel apron in front of the building complex. Some minor leaks in a few containers were noted and measures were taken, if safe, to address leaks. In other cases, leaks were controlled by containment structures and not expected to migrate laterally or into the subsurface.

After unified Command was established and assessment teams were able to survey the area, the following priorities were identified:

1. Secure Magnesium Fines drums located on the apron
2. Secure all other waste streams located on the apron
3. If allowable by a structural engineer, enter the building and assess flammable and acidic waste streams inside the building to determine if further immediate action is needed.

Monday November 19:

The PRP contractor established work zones around the Stabilization and Containment Buildings and began preparations to move the magnesium fines drums for overpacking and segregation in the staging area.

At the conclusion of the day, a total of 16 drums (10 damaged and 6 undamaged) drums had been overpacked and moved to the staging area. One pallet of magnesium fines drums had been segregated because one drum had an elevated temperature.

START conducted air monitoring for particulates, Lower Explosive Limit (LEL), and Volatile Organic Compounds (VOCs) at 2 locations in the Support Zone. AS01 was located on the west side of the Contamination Reduction Zone and AS02 was located in the Observation Area.

Tuesday November 20:

The PRP contractor completed overpacking and staging of magnesium fines drums. A total of 77 damaged and 12 undamaged drums were overpacked and moved to the staging area. The drum that had an elevated temperature from the previous day was deemed stable enough to overpack and is included in this group.

The PRP contractor moved debris from the explosion aside in front of the Stabilization Building in preparation for segregation and relocation of other drums and totes in front of the Stabilization and Containment Buildings. Efforts were made to move as little debris as possible to preserve the scene for an OSHA investigation. No vehicles that were impacted in the explosion were moved as part of this operation. The drums and totes were moved and segregated based on their original location. The total number, type, and general contents of the drums are included in the matrix table below.

The PRP collected samples from Pit 2 and samples of fines and ash outside the Stabilization and Containment buildings for field analysis.

START conducted air monitoring for particulates, LEL and VOCs at the Observation Area.

Wednesday November 21:

The PRP placed plastic tarps on the top of the damaged drums in the staging area and after receiving clearance from a 3rd party structural engineer, placed plastic tarps on the containers and drums still located in the Containment Building. These drums could not be removed due to concerns of building stability. Several visual assessments were done from afar and after a structural engineer deemed the building safe to walk through, a close-up inspection was done. One tote of acid was leaking into a containment area and floor dry was used to solidify the material. All other containers inside the building were deemed in stable condition.

All waste material assessments and any immediate stabilization measures needed were completed by the end of this day. EPA transitioned oversight to Idaho Department of Environmental Quality (IDEQ) and demobilized from the site.

2.1.2 Response Actions to Date

2.1.3 Enforcement Activities, Identity of Potentially Responsible Parties (PRPs)

2.1.4 Progress Metrics

The drums were grouped from west to east in the segregated groups from which they were moved.

Drum Group 1

Caustics and amines
1 55-gallon drum without a lids full of solid debris
3 55-gallon undamaged drums full of solid debris
1 250-gallon tote

Drum Group 2

Caustic and amines
25 55-gallon undamaged drums
2 55 gallon drums without lids full of solid waste
13 35 gallon drums
43 5-gallon totes
8 boxes (4 each box) 1-gallon bottle

Drum Group 3

Sandblast Media
3 55-gallon drums without lids
36 55-gallon undamaged drums

Drum Group 4

Magnesium Fines
All drums from this location were overpacked in the overpack area prior to being moved to the staging area
77 35-gallon damaged drums
12 35-gallon undamaged drums

Drum Group 5

Magnesium (waste and shavings)
Drums were banded together on 3 pallets with 5 drums each
13 35-gallon undamaged drums
2 35-gallon partially crushed drums

Drum Group 6

Corrosives
8 55-gallon undamaged poly drums
5 55-gallon drums with damaged lids

Drum Group 7

Miscellaneous acids, corrosives, and solid waste
16 55-gallon undamaged drums
1 55-gallon crushed drum (overpacked after being moved to the staging area)
2 55 gallon undamaged poly drums
5 250-gallon totes
1 55-gallon acid drum (segregated in the staging area)

2.2 Planning Section

2.2.1 Anticipated Activities

PRP will continue cleanup of debris and relocation of the staged drums, totes, and containers to a permanent location pending approval from OSHA and IDEQ. Wastes will be managed according to requirements of the facility's RCRA permit.

2.2.1.1 Planned Response Activities

2.2.1.2 Next Steps

The PRP will provide the following information to EPA within 24 hours of demobilization:

- Initiate a daily e-mail report of significant activities.
- Provide a specific status update of the site following the first significant rain event.
- Notify EPA OSC immediately of any changes in site stability.

2.2.2 Issues

The OSC coordinated with the OSHA inspector to secure and stabilize the drums on the building apron in front of the Stabilization and Containment buildings. Care was taken to minimize debris disturbance during stabilization activities.

On Tuesday November 20, work around the Stabilization and Containment buildings ceased for approximately 2 hours for Idaho Power to remove a piece of building material from the power lines and to re-energize the lines.

2.3 Logistics Section

No information available at this time.

2.4 Finance Section

Estimated Costs *

	Budgeted	Total To Date	Remaining	% Remaining
Extramural Costs				
TAT/START	\$30,000.00	\$15,000.00	\$15,000.00	50.00%
Intramural Costs				

Total Site Costs	\$30,000.00	\$15,000.00	\$15,000.00	50.00%
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* The above accounting of expenditures is an estimate based on figures known to the OSC at the time this report was written. The OSC does not necessarily receive specific figures on final payments made to any contractor(s). Other financial data which the OSC must rely upon may not be entirely up-to-date. The cost accounting provided in this report does not necessarily represent an exact monetary figure which the government may include in any claim for cost recovery.

2.5 Other Command Staff

No information available at this time.

3. Participating Entities

3.1 Unified Command

EPA
US Ecology

3.2 Cooperating Agencies

Idaho Department of Environmental Quality
Idaho Office of Emergency Management
Occupational Safety and Health Administration

4. Personnel On Site

- 1 - EPA OSC
- 2 - START

Estimated personnel on site at various times during this operational period.

- 22 - US Ecology
- 9 - H2O (PRP contractors)
- 1 - Idaho Power
- 3 - Fluor
- 3 - Baker Risk

5. Definition of Terms

No information available at this time.

6. Additional sources of information

6.1 Internet location of additional information/report

6.2 Reporting Schedule

0700 - Daily briefing
1600 - Bridge Call
1700 - End of day briefing

7. Situational Reference Materials

No information available at this time.